

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 275 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHHOTALAL SHOBHARAM MODHIA

Versus

KISHORKUMAR AMRATLAL LIMDIWALA

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Appearance:

MR CJ VIN for Petitioner

MR HN BRAHMBHATT for Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 01/07/98

ORAL JUDGEMENT

This appeal is admitted and by consent, taken up for final disposal.

2. The respondent herein has filed Special Civil Suit No. 147 of 1997 in the Court of the learned Civil Judge, (S.D.) at Godhra for obtaining relief of specific performance of agreement to sell the suit property

alleged to have been entered into between the parties. In the said suit, the respondent moved an application for obtaining interim injunction under Order-39, Rule 1-2 read with section 151 of the Code of Civil Procedure, 1908 for obtaining the relief of temporary injunction till the final disposal of the suit so as to restraining the appellant (original defendant) from transferring the suit property to anybody else. The learned trial Judge has granted temporary injunction restraining the appellant from transferring, selling, alienating or mortgaging the suit property to any third party. That order has been challenged in this appeal from order by the original defendant.

3. The submissions made by Mr. C.J.Vin, learned advocate appearing for the appellant are mainly two fold. Firstly, the very execution of agreement to sell is in dispute and secondly, the appellant is aged about 96 years and according to his case, the respondent (original plaintiff) is taking the advantage of the grace shown by the appellant in allowing him to occupy the suit premises as licensee. In my opinion, both these submissions can be taken care of by passing the following order. As a matter of fact, Mr. H.N.Brahmbhatt, learned advocate appearing for the respondent submits that the respondent might be directed not to transfer the possession (whatever may be the nature of possession) to any third party during the pendency of the suit. Bearing in mind the age of the appellant, appropriate direction for expeditious trial and disposal of the suit also can be given. Hence the following order is passed :

4. Respondent-original plaintiff will not transfer the possession of the suit property (whatever may be the nature of his possession) to any third party till the final disposal of the suit.

5. The trial Court is directed to expedite the hearing of the suit and dispose it of as expeditiously as possible, preferably within the period of six months from the date of receipt of these directions. Learned advocates appearing for the respective parties before the trial Court will cooperate in the expeditious disposal of the suit. Subject to these directions, the order of the trial Court is maintained and the appeal is disposed of with no order as to costs.